In the High Court of Judicature at Madras

Dated: 27/09/2004

Coram

The Honourable Mr.Justice V.KANAGARAJ

Writ Petition No.18461 of 1996 and Writ Petition No. 18462 of 1996

1. P.Rayappan
2. Selvaraj
3. Josephin
4. Devaraj
5. Crazmary
6. R.Mariapackiam ... Petitioners 1 to 5 in
W.P.No.18461 of 1996
Petitioners 1 to 6 in
W.P.No.18462 of 1996

-Vs-

The Special Tahsildar
(Land Acquisiton)
Neighbourhood Scheme
Tuticorin ... Respondent in both
the W.Ps.

Prayer: Writ petitions filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus as stated therein.

For petitioner : Mr.S.Subbiah

For respondents : Mr.R.Chandrasekaran GA

:O R D E R

The petitioners, in the name of their deceased father, have come forward to file these writ petitions on certain grounds, seeking to issue a Writ of Certiorarified Mandamus, to call for the records of the Special Tahsildar (Land Acquisition) Neighbourhood Scheme, Tuticorin, the respondent herein, respectively in L.Dis.Nos.669/95 and 668/95 dated 20.11.1995 and quash the same and direct the respondent to refer Award No.1 of 1992 dated 06.11.1992 in respect of the land in S.No.126/8A to an extent of 0.19.5 hectare in Sankaraperi Village, Block V Tuticorin Taluk, V.O.C.District, belonging to the petitioners in W. P.No.18461 of 1996, and also in respect of the land in S.No.126/8B to an extent of 0.46.5 hectares in Sankaraperi village

Block-V, Tuticorin Taluk, V.O.C. District belonging to the petitioners in W.P.No.1846 2 of 1996, under Section 18 of the Land Acquisiton Act to the Civil Court, for enhanced compensation.

2. Heard both.

3. In the above matter the award has already been passed and the compensation amount as fixed by the respondent-Tahsildar has also been deposited in the Court of reference, that is the Subordinate Judge, Tuticorin whereas the petitioners would come forward to say that there was no notice to their father and that they did not know about the acquisition proceedings at all and therefore, unless the award passed is quashed they will be subjected to much loss and hardship; the petitioners have further prayed for referring the matter under Section 18 of the Land Acquisition Act, to the Court of reference for enhancement of compensation.

4. Now having gone through the materials made available in both the matters, the subject matter falls within one and the same proceeding wherein the petitioners are also the same and the respondent as well but pertaining to lands falling under different survey numbers and hence the above two writ petitions.

5. On the part of the petitioners, learned counsel would submit that the only difference that is made in between the first writ petition and the second one is that the land in question in the first case falls under Survey No.126/8A whereas in the second case it is under Survey No.126/8B and the extent of land which are respectively 0.19.5 hectares in the first writ petition above and 0.46.5 hectares in the second writ petition excepting which all others are one and the same and therefore, this common order is passed by this Court in consideration of the facts pleaded, having regard to the materials placed on records and upon hearing learned counsel for both.

6. On the part of the learned Government Advocate he would come forward to reveal that as early as on 06.11.1992 itself the Award had been passed in this matter and even the amount of compensation had been deposited in the Court of reference that is the Court of Subordinate Judge, Tuticorin as per L.A.O.P.No.43 of 1992 on 26.11.1992 and therefore nothing survived for the petitioners to exhaust their remedy so far as the first part of prayer for quashing of the proceedings were concerned even at the time of filing of both the writ petitions. So far as the second part of the relief sought for on the part of the petitioners in both the writ petitions, that is, for making reference for higher compensation under Section 18 of the Land Acquisition Act to the Court of reference, learned Government Advocate would have no objection and hence he would request the Court to pass the order as it is required in these circumstances.

7. On a overall considerations of all those aspects connected to the subject, this Court is of the view that since after the lapse of four years of passing of the Award No.1 of 1992 and even depositing the amount of

compensation in the Court of reference by the respondent-Tahsildar, definitely the writ petitions after such passing of the Award particularly, seeking to quash the proceedings would not arise at all nor is it necessary to undo those proceedings particularly since the petitioners bluntly come forward to say that they have not been served with the notice, but according to the Government Advocate notices have been served on the proper parties and they were the sufficient notices.

8. Thus in the case of quashing the proceedings which have all been a finished chapter, could not be contemplated and therefore so far as this part of the relief sought for by the petitioner is concerned, this Court is not inclined to pass any order and the net result is only the dismissal of this part of the prayer in both.

9. So far as the rest of the prayers connected to reference to be made to the Court of reference are concerned, this Court is absolutely not having any objection for issuing such direction to the Court of Reference even at this distant point of time since eight years have been lapsed in seeking the relief in the above writ petitions and therefore it is only desirable to direct the parties to approach the respondents for Reference in the manner known to law for proper remedies particularly for enhancement of compensation and hence a direction is issued to the District Collector, Tuticorin having jurisdiction over the subject matter who will entertain the application or representation made on the part of the petitioners and direct the same to the concerned official to refer the matter to the Court of Reference that is the Court of Subordinate Judge, Tuticorin, for seeking enhancement of compensation in the matter in a time bound manner at any cost not later than 30 days from the date of receipt of the representation of the petitioners in this regard.

In result,

(i) subject to the above direction to the District Collector, both the writ petitions are dismissed.

No costs.

Index Yes
Internet Yes
kvsg

To
The Special Tahsildar
(Land Acquisition)
Neighbourhood Schme
Tuticorin.